

THE GEORGE WASHINGTON UNIVERSITY
Washington, D. C.

MINUTES OF A REGULAR MEETING
OF THE FACULTY SENATE HELD ON
MARCH 8, 1985, IN LISNER HALL
Room 603

1 The meeting was called to order by Vice President French at 2:12 p.m.

Present: Vice President French, Registrar Grimm, Parliamentarian Schechter, Birnbaum, Cheh, Claeysens, Della Torre, Fox, Frey, Greene, Griffith, Harmon, Kramer, Levy, Morgan, Pierpont, Rashid, D. Robinson, L. Robinson, Schiller, Singpurwalla, Solomon, Wallace, and Yezer

Absent: President Elliott, Altshuler, Amling, Barron, Castleberry, East, Kelly, Kenney, Liebowitz, Loeser, Lovett, Plotz, Schiff, and Smith

2 Vice President French called for approval of the minutes of the regular meeting of February 8, 1985, as distributed. Professor Levy asked that the minutes be corrected on Page 2, Minute 3(b), to show Professor Edward A. Caress as a regular member of the Athletics Committee, not an "ex officio" member. The minutes were approved as corrected.

3 (a) On behalf of the Joint Committee of Faculty and Students, Professor Claeysens, Co-Chair, continued discussion of Resolution 84/14, "A Resolution to Amend the University Policy on Academic Dishonesty," by yielding the floor to Professor Schechter, a former member of the Joint Committee. Professor Schechter apologized for being absent at the last Senate meeting because of a conflicting Law School faculty meeting. He pointed out that he was not speaking as the draftsman of the document now before the Senate, nor as its chief spokesman. He then outlined the history of the process during the time he served on the Joint Committee. He said that he thought it was very important that the Senate deal with the document in a way that would guarantee some final results fairly promptly, and he said he would be glad to answer any questions. Professor Greene asked if the question of an "Honor System" had been considered by the committee, and Professor Schechter responded that the committee was of the view that an Honor System tended to be found primarily at institutions that have a long tradition of using that mode of discipline, and that it would be very difficult to impose such a system full-blown at this point upon the University. Further discussion followed by Professors Pierpont, Schechter, Cheh, Claeysens, Levy, Singpurwalla, Fox, and Dean Birnbaum.

The Chair then yielded the floor to Professor Banzhaf who spoke about his concerns regarding the proposed new Academic Dishonesty Code. He said he would be happy to draft amendments which would cover his objections to the proposed new document that would resolve only technical, not policy, matters. (Memorandum from Professor Banzhaf regarding Proposed New Academic Dishonesty Code was distributed at the meeting and is attached.)

3 Dean Solomon commented that he did not like to see the issue of academic dishonesty within the University community be considered a "legal" matter because it is an "academic" matter, and the way the University proceeds is in terms of academic tribunals and academic expertise with regard to judgment. Professor Griffith said that it appeared to him after listening to the discussion that the Joint Committee was faced with a difficult problem of determining what strategy it should follow, i.e., whether the draft is salvageable and should be amended, or whether it should be set aside and a substitute resolution offered at the next meeting with a rewritten document that seemed closer to what the Senate would likely accept. He urged members to communicate their views to the Joint Committee Co-Chairmen as to what approach should be taken in bringing this back to the Senate. Professor Fox commented that the University has tried to address the problem within the limits of its jurisdiction, i.e., the Code provides for the suspension or expulsion of students found cheating, but it seemed to him that the proposed policy was moving away from that direction. The discussion concluded, and the Chair noted that the resolution would be taken up again at the April Senate meeting for possible final action. (Resolution 84/14 is attached.)

4 (a) On behalf of the Appointment, Salary and Promotion Policies Committee, Professor Lilien Robinson, Chair, moved the adoption of Resolution 84/16, "A Resolution to Amend the Faculty Code with Respect to Appointments," and the motion was seconded. Professor Lilien Robinson explained that there were essentially two components of the resolution establishing criteria for appointments and establishing procedures with regard to appointments. The criteria would follow those already in place in the Code for promotion. With regard to the procedures, she noted that the University does have certain procedures now because of equal opportunity and affirmative action policies, but these are limited and should be viewed as an initial step. In order for the University to maintain its academic excellence, she said, there must be some set of procedures established for appointments to avoid future problems of non-renewal of appointment of tenure. Dean Birnbaum asked if the resolution applied to "regular faculty" only, and Professor Lilien Robinson replied that it did. With reference to procedures, Professor Greene asked whether the committee considered including some general kinds of statements as to what issues ought to be addressed as University policy which might be amplified by the schools and departments. Professor Lilien Robinson replied that the words, "relevant information," in Paragraph 6. were intended to mean the past history of the individual in terms of employment record and academic record. Professor Morgan, Chair of the Professional Ethics and Academic Freedom Committee, said that the PEAF Committee also reviewed this resolution and had only a few recommendations to make. He moved to amend Paragraph 5. under the RESOLVING clause by changing the subtitle to "Criteria and Procedures for Appointments" and by including in Paragraph 5. the language presently in Paragraph 6 (striking the number "6."), so that the same would read:

5. Criteria and Procedures for Appointments

Each school, college, or comparable educational division shall establish and publish criteria on which faculty appointments will be based. Additional criteria that may exist in the departments shall also be published. Each department or nondepartmentalized school or college shall establish and publish the procedures to be followed for recruitment, assembling all relevant information, and making recommendations for appointments to the faculty.

The amendment was seconded. The question was called and the amendment was adopted.

Professor Morgan then moved to amend the resolution by inserting the word "regular" before the word "faculty" appearing in the second lines of the first and second WHEREAS Clauses, and in the second and last lines of the RESOLVING Clause, Paragraph 5, as amended. The motion was seconded. Professor David Robinson said that he assumed there was nothing in the existing resolution that would forbid more elaborate procedures for regular faculty than for other faculty, and Professor Morgan concurred. The question was called and the amendment was adopted. A discussion followed by Professors Pierpont, Griffith, D. Robinson, Yezer, Morgan, Claeysens, L. Robinson, Kramer, and Levy. The question was called and Resolution 84/16, as amended, was adopted. (Resolution 84/16, as amended, is attached.)

5. No resolutions were introduced under Introduction of Resolutions.
6.
 - (a) On behalf of the Executive Committee, Professor Griffith nominated the following faculty for election to the Nominating Committee of the Executive Committee for the 1985-86 Session: Professors Norman C. Kramer, Convener (Medical); Galip M. Arkilic (SEAS); Stephen R. Chitwood (SGBA); Joseph B. Levy (GSAS); Donald C. Linkowski (Education); Robert E. Park (Law); and Ruth A. Wallace (Columbian College). No nominations were made from the floor. After discussion by Professors Morgan, Griffith, D. Robinson, Rashid, and Fox, the nominees were unanimously elected to serve on the Nominating Committee.
 - (b) On behalf of the Executive Committee, Professor Griffith reported on the following items:
 - (1). A recommendation was received from the Provost for adding a new sentence at the end of the first paragraph of the new section regarding gradual retirement in the Faculty Handbook, as follows: "Any determination of programmatic needs as required by Section VII.D of the Faculty Code, and the combination of effort to satisfy that need, proposed by a faculty member for purposes of reducing service to a two-thirds or half-time basis, must be approved by the departmental chairperson, cognizant dean, and the Vice President for Academic Affairs." This amendment, Professor Griffith explained, would provide the administration with a procedure for determining whether or not a request for gradual retirement satisfied the programmatic needs requirement which the Senate added to the Faculty Code. The Provost suggested a second amendment to the Forward, p.v of the Faculty Handbook, to add the following sentence: "It is the practice and intent that no substantive revisions will be made without consultation with an appropriate committee of the Faculty Senate." Because the Provost put a deadline of February 15th for reply, the Executive Committee discussed these two recommendations and approved them on behalf of the Faculty Senate, with one change requested in the second recommendation to simply say "consultation with the Faculty Senate." The Executive Committee could then decide what Senate committee should be appropriately consulted. Professor Griffith noted that he informed Provost Johnson that the Senate may view these recommendations differently. Normally, he said, the Faculty Senate does not propose language for the Faculty Handbook as it is an administrative document, but in an effort to clarify the partial retirement policy, the Executive Committee thought the Provost's recommendations appropriate.
 - (2) In response to Professor Rashid's concern about the difficulty of crossing 22nd and H Streets, Professor Griffith said he was happy to report that he has been informed by Robert E. Dickman, Assistant Treasurer, that the District has changed the timing of the traffic lights at 22nd and G Streets from 40 seconds to 80 seconds in order to relieve the automobile/pedestrian conflict at both 22nd and H Streets and 22nd and I Streets.

6 (3) The appeal in the grievance of Dr. Bruce E. Committee was heard by the Grievance Committee on Monday, March 4th; the Grievance Committee has subsequently met for deliberation; and a report will follow shortly.

(4) At the April 12th Senate meeting, Resolution 84/15 on Athletics will be taken up again. Professor Griffith urged members to send their recommendations to Professor Levy, Chair of the Athletics Committee, before that meeting.

(5) At the March 29th meeting of the Executive Committee, nominations will be made for appointment of faculty to administrative committees, and those faculty interested in serving should send their requests to the Faculty Senate Office before that date. He also reminded members that the April 12th meeting was the last meeting of this session, and if the committee chairmen have any resolutions to report in this session, they also should be received by the Executive Committee before its March 29th meeting for inclusion on the April agenda.

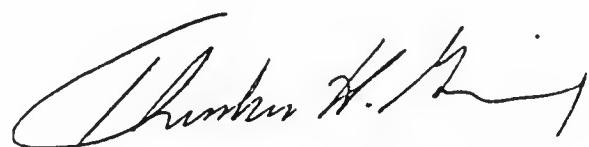
(6) Annual Reports of Standing Committees are due by the May meeting.

7 Under Brief Statements, Professor Morgan said that he was happy to note that the Faculty Handbook is viewed by the administration, with the agreement of the Senate Executive Committee, as essentially an administrative document. He said that, at least on one occasion in the past, to his knowledge, the Faculty Handbook has been represented as having the same contractual status as the Faculty Code and he was delighted to learn by this admission that that is not the case.

As a follow-up to Dean Birnbaum's report last month on the possible sale of the hospital, Professor Griffith reported that Dean Birnbaum has met with representatives of four major firms. Each representative was given a copy of GW's study and information and each was asked to confirm to Dean Birnbaum their continued intent. One firm has withdrawn and the remaining three are beginning to visit and acquire data. A fifth firm has contacted Dean Birnbaum and he will meet with their representatives next week.

Vice President French then introduced Jeffrey R. Henig, who was attending his first meeting of the Senate as an Associate Dean of SPIA.

8 Upon motion made and seconded, Vice President French adjourned the meeting at 3:54 p.m.



Theodore H. Grimm, Jr.
Secretary



THE
GEORGE
WASHINGTON
UNIVERSITY

Washington, D.C. 20052 / The National Law Center

TO: Professors Cheh, Robinson, and Schiller, as
law faculty representatives on the Faculty Senate; copies to law faculty

FROM: Professor Banzhaf

RE: Proposed New Academic Dishonesty Code

I am writing in response to Prof. Cheh's memo of February 22, 1985 inviting members of the law faculty to comment on the proposed new Academic Dishonesty Code ["Code"]. The problems I find with the proposed draft are set forth below.

1. The Code at page 2 attempts to create an overall definition of "academic dishonesty" as "limited to behavior . . . which contributes to undeserved grades resulting from intentionally devious or dishonest means." This would strongly suggest that, as elements of proof of any offense, it must be shown: (1) that the conduct in question did in fact contribute to the grades; (2) that the grades were in fact undeserved; and (3) and that they resulted from the conduct. Thus a student who can show that his act of admitted dishonesty did not in fact affect his grade (perhaps because he was unsuccessful); or who can show that he in fact deserved the higher grade which he received only as a result of his admitted dishonesty (perhaps the instructor was unfairly discriminating against him), would appear to have a valid defense. However, it seems unlikely that the faculty would wish to excuse acts of academic dishonesty simply because they were not successful in changing a grade, or to inject many extraneous issues (such as whether a grade is deserved or not) into what it is attempting to make a simple proceeding.

2. The Code attempts to define "academic dishonesty" by listing different acts which are specifically prohibited. But under rules of construction which arguably apply with special strictness in a quasi-criminal context, a strong argument can be made that anything not expressly enumerated does not constitute academic dishonesty, and cannot be made the basis for any disciplinary proceeding, see, e.g., Penns. State Board of Pharmacy v. Cohen, 448 Pa. 189, 292 A.2d 277 (1972).

3. It is also clear that no amount of careful draftmanship can possibly hope to anticipate and spell out all of the different acts which reasonable people would agree constitute academic dishonesty. For example, although subsection (d.) on page 2 prohibits "possession or distributing an examination prior to its distribution by an examining instructor," it does not prohibit the act by student A of looking at such an examination in the possession of student B. Moreover, if the same examination is to be given twice (e.g., for day and night classes), it is not clear if a student violates this provision if he possesses a copy of the exam after "its distribution by an examining instructor" for the first test, but prior to its distribution for the second examination to a class of which that student is a part. These arguments are not "simply academic" or "nitpicking"; they are the kind of arguments sure to be raised by any attorney representing the student, either in proceedings within the university, or in a legal action against the university.

OVER PLEASE

4. Similarly, although subsection (e.) prohibits "impersonating another student in an examination situation or arranging for another to commit this act," it does not expressly prohibit impersonating or checking in for another student in situations in which attendance is required, or even in classroom discussions which -- while classroom performance may count for a portion of the grade -- are not ordinarily considered an "examination situation." Other conduct which would rather clearly constitute academic dishonesty in the eyes of most, which is not even addressed, is violating the rules of a take-home exam short of plagiarism; e.g., using a phony postal date mark to have extra time to prepare answers; forging an instructor's name or initials on a drop/add or Cr/No Cr slip; etc.

5. For all of the above reasons I respectfully suggest that the initial definition of "academic dishonesty" be changed to avoid the problems mentioned in paragraph 1 above, and that a new subsection i. be added to read substantially as follows:

1. ANY ACT INVOLVING DISHONESTY, MISREPRESENTATION, DECEIT, FALSIFICATION, OR TRICKERY OF ANY KIND AND WHICH IS DONE BY THE STUDENT WITH THE INTENT OR EXPECTATION OF FAVORABLY INFLUENCING A GRADE OR OTHER ACADEMIC EVALUATION; PROVIDED, HOWEVER, THAT IT SHALL BE A DEFENSE TO A VIOLATION OF THIS SUBSECTION IF THE STUDENT CAN SHOW THAT HE ACTED IN ACCORDANCE WITH A GOOD FAITH AND REASONABLE BELIEF THAT HIS ACTION WOULD NOT CONSTITUTE AN ACT OF "ACADEMIC DISHONESTY."

6. The Code strangely fails to state whether the proceedings before the "Dean's Council" or the "Appellate Body" (particularly if it takes additional testimony) are to be conducted in secret, either as a general matter or if requested by any one or more of the participants. What happens, for example, if the accused wishes to waive whatever rights of privacy he may have, and requests an open proceeding?

6. Subsection (b.) on page 6 guarantees that a student may be represented by counsel, presumably at every stage in the proceedings. Yet strangely the Code does not seem to provide for any person to serve in a prosecutorial or accusatory function, and to present the case against the student. If no one serves that role, it is hard to see how there will be much of a proceeding, especially if a lawyer is involved on the other side. If you expect the instructor bringing the charges, or the appropriate dean, to stand up against a seasoned lawyer in a proceeding of some formality, you may well discourage the bringing of any charges -- exactly what you are apparently seeking to avoid.

7. Likewise, there seems to be no statement in the Code as to the standards for determining guilt to be applied by the Dean's Counsel or the Appellate Body. Since this is a quasi-criminal proceeding with potentially very serious consequences for the accused, it could well be argued -- in the absence of any language to the contrary -- that the standard is to be proof "beyond a reasonable doubt" as to all of the essential elements. Is this what the faculty intends?

8. In addition, unless I missed something, there is nothing in the Code which purports to govern how strictly the ordinary courtroom rules of evidence and procedure are to be applied. Notice, for example, that the Administrative Procedure Act, and the rules of many agencies, do deal with these matters expressly. Whatever the decision, I think some general indication of the degree of formality should be set forth before the decisions have to be made on an ad hoc basis after the offense has been committed, and the proceedings are under way. Anything else could give the impression of unfairness, and provoke needless controversy.

A RESOLUTION TO AMEND THE UNIVERSITY POLICY ON ACADEMIC DISHONESTY (84/14)

WHEREAS, the Joint Committee of Faculty and Students has been asked to make recommendations for amendments and changes to the Academic Dishonesty Policy; and

WHEREAS, the Joint Committee was asked in Spring, 1980, to review its proposal of April 1980; and

WHEREAS, the Joint Committee has approved the attached proposed Academic Dishonesty Policy after due and lengthy consideration; THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

That the Faculty Senate approve the proposed Academic Dishonesty Policy to replace the policy now in existence effective Academic Year 1986-87.

Joint Committee of Faculty and Students
January 23, 1985

Deferred, February 8, 1985, to the March 8, 1985, Senate meeting for discussion and to the April 12, 1985, Senate meeting for final action

A RESOLUTION TO AMEND THE FACULTY CODE WITH RESPECT TO APPOINTMENTS (84/16)

WHEREAS, meticulous care in the standards and procedures for the selection of regular faculty is vital to maintenance of academic excellence in the University; and

WHEREAS, the Faculty Code does not presently contain a requirement that standards and procedures for appointments to the regular faculty be established and published; THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

That the following be inserted under Article IV. A. of the Faculty Code:

5. Criteria and Procedures for Appointments

Each school, college, or comparable educational division shall establish and publish criteria on which regular faculty appointments will be based. Additional criteria that may exist in the departments shall also be published. Each department or nondepartmentalized school or college shall establish and publish the procedures to be followed for recruitment, assembling all relevant information, and making recommendations for appointments to the regular faculty.

Appointment, Salary and Promotion Policies Committee
January 29, 1985

Adopted, as amended, March 8, 1985

THE GEORGE WASHINGTON UNIVERSITY
Washington, D. C.
20052

The Faculty Senate

February 25, 1985

The Faculty Senate will meet on Friday, March 8, 1985, at 2:10 p.m. in Lisner Hall 603.

AGENDA

1. Call to order
2. Approval of the minutes of the regular meeting of February 8, 1985
3. Old Business:
 - (a) A RESOLUTION TO AMEND THE UNIVERSITY POLICY ON ACADEMIC DISHONESTY (84/14), deferred February 8, 1985, to March 8, 1985, for discussion; Professor A. E. Claeysens, Jr., Co-Chair, Joint Committee of Faculty and Students (Resolution 84/14 attached.)
4. Resolutions:
 - (a) A RESOLUTION TO AMEND THE FACULTY CODE WITH RESPECT TO APPOINTMENTS (84/16) with Memorandum; Professor Lilien F. Robinson, Chair, Appointment, Salary, and Promotion Policies Committee (Resolution 84/16 attached with Memorandum.)
5. Introduction of Resolutions
6. General Business:
 - (a) Nomination for election of the Nominating Committee for the Executive Committee for the 1985-86 Session: Professors Norman C. Kramer, Convener (Medical); Galip M. Arkilic (SEAS); Stephen R. Chitwood (SGBA); Joseph B. Levy (GSAS); Donald C. Linkowski (Education); Robert E. Park (Law); and Ruth A. Wallace (Columbian College)
 - (b) Report of the Executive Committee: Professor William B. Griffith, Chair
7. Brief Statements
8. Adjournment



Theodore H. Grimm, Jr.
Secretary

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WHEREAS, meticulous care in the standards and procedures for the selection of faculty is vital to maintenance of academic excellence in the University; and

WHEREAS, the Faculty Code does not presently contain a requirement that standards and procedures for appointments to the faculty be established and published; THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

That the following be inserted under Article IV. A of the Faculty Code:

5. Criteria for Appointments

Each school, college, or comparable educational division shall establish and publish criteria on which faculty appointments will be based. Additional criteria that may exist in the departments shall also be published.

6. Procedures for Appointments

Each department or nondepartmentalized school or college shall establish and publish the procedures to be followed for recruitment, assembling all relevant information, and making recommendations for appointments to the faculty.

Appointment, Salary and Promotion Policies Committee

January 29, 1985

THE GEORGE WASHINGTON UNIVERSITY
INTERDEPARTMENTAL MEMORANDUM

February 25, 1985

TO: Members of the Faculty Senate
FROM: Lilien F. Robinson, Chairman *Lilien F. Robinson*
Appointment, Salary and Promotion Policies Committee
RE: Senate Resolution on Appointments (84/16)

This proposal would require appointment criteria and procedures to be set forth by schools and departments, as is now required for promotion and tenure.

It is anticipated that the criteria would probably follow those presently established for promotion. The most important component of the requirement is that applicable to procedures. At present minimal University-wide requirements of seeking a broad spectrum of applicants are mandated by the affirmative action program. Yet many parts of the University lack written procedures designed to produce the sort of careful and complete investigation of academic and employment histories which should precede an initial offer of academic employment at George Washington. The result has often been a later denial of renewal of appointment or tenure, the filing of grievances, or the acquisition of an indefinitely less than optimal member of the faculty.